

**Testimony before the Michigan House Judiciary Committee  
On House Bill 4964**

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Thank you for the opportunity to speak to today in support of HB 4964. My name is Laura Sager and I am the Director of State Legislative Affairs for Families Against Mandatory Minimums, a national nonpartisan organization whose mission is ensuring fair and proportionate sentencing policies.

FAMM has historically supported the work of federal and state sentencing commissions. At least 22 states have established such commissions and while their missions differ somewhat, they are generally created to assist the legislature in examining past and proposed policies, consider their effectiveness, and set fair and proportionate sentencing policies. They also report the impact of various sentencing and correction policies on corrections capacity and assist the legislature in determining the fiscal impact, over time, of policy proposals.

There is a consensus among criminal justice professionals that sentencing commissions are an indispensable part of any successful sentencing system. These groups include the American Bar Association, the American Law Institute, and the Constitution Project. The American Law Institute is a body of scholars and practitioners who developed the Model Penal Code, a comprehensive body of model criminal provisions first promulgated in 1962. Many states developed sentencing structures based on the original Model Penal Code, which is now undergoing revision. The current draft of the revised Code *requires* the establishment of a permanent and independent sentencing commission. The commentary warns absent a commission, “the monitoring, research, planning, consensus-building . . . functions normally entrusted to a commission are performed by no one on a continuing basis. . . . Crime rates change, as do the politics of punishment, the availability of resources, and the feedback from various sources on how well the sentencing is working.”

Rest assured: including capacity and costs in the equation has yet to deter any of the states with commissions from imposing tough sentencing laws – public safety is still the paramount concern for legislators everywhere. However, commissions do allow legislative leaders to be as *smart* as they are *tough* on crime.

As one proponent of establishing a commission in New Jersey noted, improving our knowledge and ability to guide sentencing policies *based on good evidence* is the only sane course, especially as criminologists and corrections professionals have generated an enormous body of research about the relative efficacy of various programs and custodial and non-custodial sanctions in protecting public safety over the long term.

Commissions cannot and do not replace legislative decision-making. However, data-driven reviews of current and proposed sentencing policies across the entire system

are an enormous asset to law makers struggling to address the many complex issues related to sentencing, public safety, and effective use of state resources.

Over time, sentencing policies can become haphazard, archaic, confusing, disproportionate, or can create unintended consequences and disparities that call into question the fairness of the criminal justice system. Effective, respected commissions create an environment where representatives from across the political spectrum can work with law enforcement, stakeholder organizations, citizens and corrections professionals to conduct needed research, **come to a bipartisan consensus**, and make thoughtful recommendations for systematic reforms of sentencing and related policies and practices that improve public safety while containing costs. This evidence-based, consensus- and trust-building bipartisan process is one of the most important contributions of successful commissions.

Legislators serving on commissions with prosecutors, sheriffs, corrections officials, citizen advocates, defense attorneys and judges have the opportunity to examine sentencing policies and practices from many different perspectives and develop an ongoing and invaluable working relationship with criminal justice practitioners and experts. Periodic or intermittent reviews cannot replace a permanent commission equipped to respond to a dynamic and complex environment with rapidly emerging public safety issues, conduct ongoing “big picture” research about cost-effective approaches to crime and corrections, and meet the demands for information generated by the ever-changing fiscal and political environment.

Historically, state sentencing commissions have become particularly important in times of severe fiscal constraints. The Minnesota legislature led the nation in recognizing that public safety, fairness and financial responsibility required a fact-based and data-driven approach to the formulation of sentencing policy. The Minnesota Sentencing Commission pioneered an approach involving the study of the probable effects of alternative policies on criminal justice operations using sophisticated modeling and simulation technology, as well historical state sentencing data. North Carolina’s legislature also required its sentencing commission to develop a computerized model to project the resources needed to implement recommendations and policy changes.

Sentencing commission professionals from both Minnesota and North Carolina frequently provide technical assistance to states contemplating establishing commissions. I strongly urge this Committee to request a presentation from these states or other criminologists familiar with best commission practices, to inform this discussion. For example, both Professor Kevin Reitz, of the American Law Institute, and Tom Ross, former executive director of the North Carolina commission and current president of Davis University, travel extensively to assist states in this work, as do a number of other prominent leaders in the field. Next week I will be attending the National Association of State Sentencing Commissions Conference and would be more than happy to assist the chair and committee members in reaching out to sentencing commission experts.